

32.305

agency shall apply the following restrictions:

(1) A reasonable limit on the amount of other borrowing.

(2) If guaranteed and unguaranteed loans are made by the same financing institution, a requirement that any collateral security requested by the institution under the unguaranteed loan is also to be secondary collateral for the guaranteed loan.

(3) A requirement that the contractor provide appropriate documentation to the guaranteeing agency, at intervals not longer than 30 days, to disclose outstanding unguaranteed borrowings.

[48 FR 42328, Sept. 19, 1983, as amended at 62 FR 237, Jan. 2, 1997]

32.305 Loan guarantees for terminated contracts.

(a) The purpose of guaranteed loans; i.e., to provide for financing based on the borrower's recoverable investment in defense production contracts, may also apply to contracts that have been terminated (partially or totally) for the convenience of the Government. Guaranteed loans also may be made before such termination if it is known that termination of particular contracts for the convenience of the Government is about to occur. These loans are expected to provide necessary financing pending termination settlements and payments. They may also finance continuing performance of defense production contracts that are eligible for guaranteed loans.

(b) The procedure for such guarantees is substantially the same as that outlined in 32.304, except that certificates of eligibility are not required for (1) contracts that have been totally terminated or (2) the terminated portion of contracts that have been partially terminated. The agency shall take precautions necessary to avoid Government losses and to ensure the loans will be self-liquidating from the proceeds of defense production contracts.

(c) Loan guarantees for contract termination financing shall not be provided before specific contract terminations are certain.

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32.306 Loan guarantees for subcontracts.

If the request for a loan guarantee concerns a subcontractor that is financially weak in comparison with its contractor, the Government's interests may be fostered by the contractor making progress payments to the subcontractor. If so, the agency shall try to arrange for the contractor to provide the progress payments. As a result, the need for the loan guarantee may be reduced or eliminated and the contractor would bear part or all of the risk of loss arising from the selection of the subcontractor.

Subpart 32.4—Advance Payments for Non-Commercial Items

32.400 Scope of subpart.

This subpart provides policies and procedures for advance payments on prime contracts and subcontracts. It does not include policies and procedures for advance payments for the types of transactions listed in 32.404. This subpart does not apply to commercial advance payments, which are subject to subpart 32.2.

[48 FR 42328, Sept. 19, 1983, as amended at 60 FR 49714, Sept. 26, 1995]

32.401 Statutory authority.

The agency may authorize advance payments in negotiated and sealed bid contracts if the action is appropriate under (a) section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255), (b) the Armed Services Procurement Act (10 U.S.C. 2307), or (c) Pub. L. 85-804 (50 U.S.C. 1431-1435) and Executive Order 10789, November 14, 1958 (3 CFR 1958 Supp. pp. 72-74) (see part 50 of the Federal Acquisition Regulation (FAR) for other applications of this statute).

[48 FR 42328, Sept. 19, 1983, as amended at 50 FR 1744, Jan. 11, 1985; 50 FR 52429, Dec. 23, 1985]

32.402 General.

(a) A limitation on authority to grant advance payments under Pub. L. 85-804 (50 U.S.C. 1431-1435) is described at FAR 50.203(b)(4).

(b) Advance payments may be provided on any type of contract; however,